S.B.CIVIL WRIT PETITION NO.2961/2007

Aziz Khan
v.
ADJ (Fast Track) No.4, Jodhpur

Date of Order :: 18th September, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.K.Mehar, for the petitioner.

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Out of compensation of Rs.3,42,200/- awarded to the claimants by the award dated 22.2.2006 passed by learned Additional District Judge (Fast Track) No.4, MACT Matters, Jodhpur, a compensation in a tune of Rs.62,200/- was given to the petitioner and out of the amount aforesaid a sum of Rs.25,200/- was given in cash whereas the remaining amount of Rs.37,000/- was ordered to be kept in fixed deposit. The petitioner by submitting an application claimed for releasing the amount kept in fixed deposit being needed in marriage of his son. The wedding ceremony, relating to that the amount kept in fixed deposit was sought to be released, took place prior to disposal of the application, therefore, the court below by order impugned dated 9.3.2007 rejected the application, hence this petition for writ is preferred questioning validity, correctness and propriety of the order dated 9.3.2007.

The contention of counsel for the petitioner is that though the marriage took place prior to disposal of the application but the expenses occurred are yet to be satisfied and, therefore, the court below erred while dismissing the application on the count that the marriage took place prior to disposal of the application. The petitioner has also placed on record certain documents to substantiate that he has borrowed money on credit and also that for making arrangement of money he also want to sale some part of his agricultural land. The application, that was preferred by the petitioner, is also available on record wherein too he mentioned that in the event of non-release of amount kept in fixed deposit he have to borrow money on credit with high interest rate. It is also pertinent to note that by the award dated 22.2.2006 compensation was also awarded to minor children of the petitioner and that amount is kept in fixed deposit. The petitioner claimed only to release the amount relating to compensation awarded to him.

Considering all facts of the case it appears that the demand made by the petitioner to release money that was kept in fixed deposit was genuine as the petitioner is to meet expenses occurred in marriage of his son.

In view of it, this petition for writ deserves acceptance and, therefore, the same is allowed. The order dated 9.3.2007 passed by learned Additional District Judge (Fast Track) No.4, MACT Matters, Jodhpur is quashed. The application preferred by the petitioner to release fixed deposit pertaining to the sum of Rs.37,000/- is allowed. Accordingly, a direction is given to permit the petitioner to realise the sum of Rs.37,000/- in cash i.e. kept in fixed deposit in pursuant to the award dated 22.2.2006 in MACT Case No.89/2005, Aziz Khan & Ors. v. Mohan Ram & Ors.

(GOVIND MATHUR),J.

Kkm/ps.